

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RHETT WILKINS,

1: 02 CV 5187 DLB P

Plaintiff,

**SUPPLEMENTAL ORDER RE
PLAINTIFF'S MOTION FOR
ATTENDANCE OF INCARCERATED
WITNESS**

v.

A. FERNANDEZ,

Defendants.

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. A jury trial in this case has been scheduled for June 1, 2005. On March 14, 2004, Plaintiff filed a motion for attendance of an incarcerated witness. Plaintiff requests the attendance at trial of his former cellmate Slaughter CDC # H-07409. At the Pretrial Conference held on April 29, 2005, the Court ordered counsel for Defendant to determine where Slaughter is currently housed. Shortly after the hearing, counsel contacted the Court and advised that Mr. Slaughter was paroled on October 25, 2004. In the Pretrial Order issued May 5, 2005, the Court advised Plaintiff that Mr. Slaughter is no longer incarcerated and therefore if Plaintiff wanted to compel his appearance at trial, Plaintiff must prepare and submit to the Court a subpoena for service by the Marshal upon Mr. Slaughter and Plaintiff must also submit the witness fee in the amount of \$40.00 plus travel expenses.

It appears that inmate Slaughter was paroled to the Stockton, California area. The Court has no further information regarding Mr. Slaughter's whereabouts. Plaintiff is advised that in order for

1 the Marshal to serve a subpoena upon Mr. Slaughter, the Marshal must have a physical address.
2 Accordingly, in order to compel the attendance of Mr. Slaughter at trial, Plaintiff must provide the
3 Court **with Mr. Slaughter's physical address along with a money order payable to Mr.**
4 **Slaughter for travel expenses plus the daily witness fee of \$40.00.** Round trip mileage from
5 Stockton to Fresno is 242 miles. The allowable mileage rate is \$.405 per mile for a total mileage fee
6 of \$98.01. Accordingly, plaintiff must submit a money order or cashiers check in the amount of
7 \$138.01 (\$40.00 witness fee plus \$98.01 travel expenses). The money order or cashiers check must
8 be made payable directly to Mr. Slaughter. **Mr. Slaughter's physical address and the money**
9 **order or cashiers check must be submitted to the Court within 5 days of this Order.**

10 IT IS SO ORDERED.

11 **Dated: May 6, 2005**
12 3b142a

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE